IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL
WRIT PETITION NO. 666 OF 2001 (M/S)
Old CMWP No. 13205 of 1995

1. Sate of U.P. through the Collector Dehradun
2. Competent Authority Urban Land Ceiling Dehradun.

…….. **Petitioner.**

Versus

1. District Judge, Dehradun
2. Banwari Lal,
3. Mukand Lal
   Both sons of Lal Singh, Resident of village Kanwli,
   District Dehradun

…….. **Respondents.**

Sri Nand Prasad, learned Standing Counsel for the petitioners.

Dated 02-03-2006

Hon'ble B.S. Verma, J.

By means of the present Writ Petition, the petitioners-State has challenged the judgment and order dated 7-4-1994 passed by the District Judge, Dehradun (respondent no. 1) in Urban Land Ceiling Appeal No. 146 of 1993, Banwari Lal and another vs. State. By the impugned judgment and order ***(Annexure-4 to the writ petition),*** respondent no. 1 allowed the appeal, by declaring the appellants are not possessed of any excess vacant land.

Brief facts giving rise to the present writ petition are that proceedings for declaring excess vacant land under the provisions of Urban Land (Ceiling and Regulation) Act 1976 (**for short the Act**) were initiated against the respondent no. 2 and 3 after enforcement of the Master Plan. The competent authority after making necessary enquiry and survey proposed to declare the surplus vacant land held by the landholder under Section 8(3) of the Act. The land-holders filed objections denying that the provision of the Act is not applicable in their case. The Competent Authority after perusing the material on record came to the conclusion that land holders Banwari Lal and Mukand Lal held 8565-49 sq.mt. and 3615-89 sq.mt. excess vacant land respectively and vide judgment

and order dated 30-11-1992, ordered for action under Section 9 of the Act. Aggrieved, the respondent no. 2 and 3 preferred an appeal before the District Judge, which was allowed vide judgment and order dated 7-4-1994 and declared that the appellants were not possessed of any excess vacant land as mentioned above.

I have heard learned Standing Counsel for the State and perused the record.

The Act Urban Land (Ceiling and Regulation) Act, 1976 (Act No. 33 of 1976) was repealed by the Central Act No. 15 of 1999. The Legislature of State of U.P. has since adopted the provisions of the Urban Land (Ceiling and Regulation) Act 1999, by a resolution as required by Article 252(2) of the Constitution, which has come into force in Uttar Pradesh on 18-03-1999 and the same are also applicable in the State of Uttaranchal.

Section 4 of the Urban Land (Ceiling and Regulation) Repeal Act, 1999 provides as under:

> ***"4.Abatement of legal proceedings.-All proceedings relation to any order made or purported to be made under the principle Act pending immediately before the commencement of this Act, before any Court, Tribunal or other authority shall abate;***
> ***Provided that this section shall not apply to the proceedings relating to Sections 11,12,13 and 14 of the principal Act in so far as such proceedings are relatable to the land possession of which has been taken over by the State Government or any person duly authorised by the State Government in this behalf or by the competent authority."***

As stated by the learned Standing Counsel, Sri Nand Prasad, appearing on behalf of the State, no declaration has been published under Section 10(3) of the principal Act, therefore, no question of vesting of the land in the State or taking over possession arises. The effect of the repealing Act on present case

is that where for land in dispute, no declaration was published under Section 10(3) of the Act, there is no question of vesting the land in the State or taking over possession of it. The present proceedings have to be abated and are hereby abated under Section 4 of the Urban Land (Ceiling and Regulation) Repeal Act, 1999.

The facts of the case are squarely covered by the judgment of the Apex Court in the case of ***"Pt. Madan Swaroop Shrotiya Public Charitable Trust Vs. State of U.P. and others" (2000, AIR, SCW, 1882).***

In view of the above, the Writ Petition has become infructuous and is dismissed as infructuous. Ordered accordingly.

(B.S. Verma, J.)

RCP